



NOTICE OF CONFIDENTIALITY

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT: XPO LOGISTICS FREIGHT, INC.; XPO
(AVISO AL DEMANDADO): ENTERPRISE SERVICES, INC.; and
DOBS 1 through 100, Inclusive,**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 25 2019

BY Amber M. Gear
AMBER M. GEAR, DEPUTY

**YOU ARE BEING SUED BY PLAINTIFF: JOHN DAVIS,
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
SAN BERNARDINO COUNTY SUPERIOR COURT
247 West Third Street
San Bernardino, California 92415-0210

CASE NUMBER
(Número del Caso)
CIVDS1902700

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Marcus A. Mancini
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

MANCINI & ASSOCIATES
15303 Ventura Blvd., Suite 600, Sherman Oaks, CA 91403 (818) 783-5757
DATE: JAN 25 2019 Clerk by: Amber M. Gear, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

COPY

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify): XPO Logistics Freight, Inc.
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- 4. by personal delivery on (date)

1 MARCUS A. MANCINI, ESQ. (State Bar No.146905)
TARA J. LICATA, ESQ. (State Bar No.266111)
2 tlicata@mamlaw.net
ARMANDO M. SOLORZANO, ESQ. (State Bar No.282650)
3 asolorzano@mamlaw.net
PAMELA A. TRIPLETT, ESQ. (State Bar No. 310232)
4 ptriplett@mamlaw.net
MANCINI & ASSOCIATES
5 A Professional Law Corporation
15303 Ventura Boulevard, Suite 600
6 Sherman Oaks, CA 91403
(818) 783-5757 Phone
7 (818) 783-7710 Fax

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 25 2019

BY Amber M. Gear
AMBER M. GEAR, DEPUTY

8 Attorneys for Plaintiff **JOSE DE JESUS LOPEZ**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**

11 JOHN DAVIS,

12 Plaintiff,

13 vs.

14
15 XPO LOGISTICS FREIGHT, INC.;
XPO ENTERPRISE SERVICES, INC.;

16 and DOES 1 through 100, Inclusive,

17 Defendants.

) Case No. CVDS1902700

) **PLAINTIFF'S COMPLAINT FOR DAMAGES:**

- 18) (1) **FOR PERCEIVED AND/OR**
- 19) **PHYSICAL DISABILITY**
- 20) **HARASSMENT,**
- 21) **DISCRIMINATION AND**
- 22) **RETALIATION IN VIOLATION**
- 23) **OF CALIFORNIA**
- 24) **GOVERNMENT CODE §§12940**
- 25) **ET SEQ. [FEHA];**
- 26) (2) **FOR HARASSMENT,**
- 27) **DISCRIMINATION AND**
- 28) **RETALIATION IN VIOLATION**
-) **OF CALIFORNIA**
-) **GOVERNMENT CODE**
-) **§§12945.2 ET SEQ. [CFRA];**
-) (3) **FOR PERCEIVED AND/OR**
-) **AGE HARASSMENT,**
-) **DISCRIMINATION AND**
-) **RETALIATION IN VIOLATION**
-) **OF CALIFORNIA**
-) **GOVERNMENT CODE §§12940**
-) **and 12941 ET SEQ. [FEHA];**
-) (4) **FOR VIOLATION OF**
-) **CALIFORNIA LABOR CODE**
-) **§§200 ET. SEQ. (Wages and**
-) **Overtime);**

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- (5) **FOR VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §17200 ET. SEQ. (Unfair Business Practices);**
- (6) **FOR RETALIATION AND WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- (7) **FOR DECLARATORY RELIEF [Permanent Injunction Requested].**

JURY TRIAL DEMANDED

UNLIMITED JURISDICTION: CASE VALUE IN EXCESS OF \$25,000.00

15 **COMES NOW** Plaintiff **JOHN DAVIS** (hereinafter referred to as “DAVIS” or “Plaintiff
16 ”) and complains against the above-named Defendants and for causes of action against the
17 Defendants, and each of them, alleges as follows:

18 **I.**

19 **FIRST CAUSE OF ACTION**

20 **(For Perceived and/or Physical Disability**

21 **Harassment, Discrimination and Retaliation in Employment**

22 **[California Government Code §12940 et seq.]**

23 **Against All Defendants and DOES 1 Through 100, Inclusive)**

24 1. At all times mentioned herein, Plaintiff was, and now is, an individual
25 residing in the County of San Bernardino, State of California.

26 2. Plaintiff is informed and believes, and thereon alleges, that at all times relevant
27 herein, Defendant XPO LOGISTICS FREIGHT, INC. (hereinafter referred to collectively with all
28 other Defendants as “Defendants”) were, and now are, valid businesses of form unknown duly

1 organized and existing under the laws of the State of California, having its principal place of
2 business in the County of San Bernardino, State of California.

3 3. Plaintiff is informed and believes, and thereon alleges, that at all times relevant
4 herein, Defendant XPO ENTERPRISE SERVICES, INC. (hereinafter referred to collectively with
5 all other Defendants as "Defendants") were, and now are, valid businesses of form unknown duly
6 organized and existing under the laws of the State of California, having its principal place of
7 business in the County of San Bernardino, State of California.

8 4. Plaintiff is ignorant of the true names and capacities, whether corporate, associate,
9 successor, alter ego, fictitious, individual or otherwise, of Defendants sued herein as DOES 1 -
10 100, Inclusive, and therefore sues said Defendants, and each of them, by such fictitious names.
11 Plaintiff will seek leave of court to amend this Complaint to assert the true names and capacities of
12 the fictitiously named Defendants when the same have been ascertained. Plaintiff is informed and
13 believes, and thereon alleges, that each Defendant designated as "DOES" herein is legally
14 responsible for the events, happenings, acts, occurrences, indebtedness, damages and liabilities
15 hereinafter alleged and caused injuries and damages proximately thereby to the plaintiff, as
16 hereinafter alleged.

17 5. Plaintiff is informed and believes, and thereon alleges, that at all times relevant
18 herein, each Defendant designated, including DOES 1-100, herein was the agent, managing agent,
19 principal, owner, parent company, subsidiary, wholly owned subsidiary, partially owned
20 subsidiary, partner, joint venturer, joint employer, direct employer, special employer, client
21 employer, labor contractor, alter ego, fictitious, representative, supervisor, manager, servant,
22 employee and/or co-conspirator of each of the other Defendants, and was at all times mentioned
23 herein acting within the course and scope of said agency and employment, and that all acts or
24 omissions alleged herein were duly committed with the ratification, knowledge, permission,
25 encouragement, authorization and consent of each Defendant designated herein.

26 6. At all times herein mentioned, for over twenty (20) years until Plaintiff's wrongful
27 termination on or about February 1, 2017, Plaintiff was employed as a Shop Manager by
28 Defendants and DOES 1 through 100, Inclusive, and each of them, who were also, at all times

1 herein mentioned, Plaintiff's employers, managers and supervisors.

2 7. At all times herein alleged, Plaintiff had the perceived and/or physical disability(s)
3 of back injuries, brain conditions including tumors, diabetes, associated conditions and others and,
4 at the time of his wrongful termination, was perceived to be and/or over the age of forty, at fifty-
5 nine years (59) of age.

6 8. From the early 2000s, and continuing, Plaintiff developed and/or aggravated and/or
7 sustained perceived and/or physical disability(s) including, but not limited to, back injuries, brain
8 conditions including tumors, diabetes, associated conditions and others.

9 9. Plaintiff placed Defendants, and each of them, on notice of Plaintiff's disability(s).

10 10. Plaintiff made and/or articulated a Worker's Compensation claim(s).

11 11. Plaintiff requested and/or was entitled to and/or was granted CFRA and/or other
12 medical and/or other negotiated leave in order to recuperate and heal.

13 12. Plaintiff repeatedly told his Supervisors about his injuries and disability(s), placing
14 Defendants, and each of them, on notice of said injuries and disability(s).

15 13. Plaintiff carried a very heavy workload for Defendants, and each of them. Over the
16 course of time, towards the end of Plaintiff's employment, the Company kept losing qualified
17 technicians, but the workload remained the same. This required Plaintiff to work many, many
18 uncompensated overtime hours.

19 14. In or around January 2017, Plaintiff sent out an email to the Shop Leaders regarding
20 Mechanic Classifications, with a proposed system assisting and/or resolving the lack of qualified
21 technicians, asset utilization while achieving the goals of the Company, and requesting the Shop
22 Leaders' input. Plaintiff received positive feedback to his suggested system.

23 15. On or about February 1, 2017, Western Region Maintenance Manager TROY
24 FERRIS informed Plaintiff that he was being terminated for "engaging the employees" and for
25 sending a "derogatory" email.

26 16. On or about February 1, 2017, Defendants, and each of them, retaliated against and
27 wrongfully terminated Plaintiff for the false and/or exaggerated and/or pretextual reason(s) of
28 "engaging the employees" and for sending a "derogatory" email.

1 17. Plaintiff is informed and believes, and thereon alleges, that Plaintiff was replaced by
2 an employee in their mid-40s, only then to be replaced by another employee substantially younger
3 than Plaintiff's original replacement.

4 18. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
5 them, replaced Plaintiff with and/or kept and/or treated more favorably a non-disabled
6 individual(s) and/or an individual(s) substantially younger than Plaintiff.

7 19. At all times herein alleged, Plaintiff was a qualified disabled worker with one or
8 more perceived and/or physical disability(s), who could perform the essential duties of Plaintiff's
9 job with or without an accommodation, and without causing harm to Plaintiff and/or Plaintiff's
10 fellow employees, and who was entitled to preferential reassignment.

11 20. From prior to February 1, 2017, and continuing at least through February 1, 2017,
12 and continuing, Defendants and DOES 1 through 100, and each of them, discriminated, harassed,
13 and retaliated against Plaintiff on the basis of Plaintiff's perceived and/or physical disability(s), by
14 the following continuous actions, and conduct, among others:

- 15 a. Failing to determine the extent of Plaintiff's disability(s) and how they could be
16 accommodated;
- 17 b. Failing to take any affirmative steps to inform Plaintiff of any job opportunities
18 within the company;
- 19 c. Failing to consider Plaintiff for and move Plaintiff into openings for which Plaintiff
20 was qualified and could handle subject to Plaintiff's disability(s);
- 21 d. Failing to engage in a timely, good faith, interactive process with Plaintiff to
22 determine effective reasonable accommodations;
- 23 e. On or about February 1, 2017, retaliating against and wrongfully terminating
24 Plaintiff for the false and/or exaggerated and/or pretextual reason(s) of "engaging
25 the employees" and for sending a "derogatory" email;
- 26 f. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
27 them, replaced Plaintiff with and/or kept and/or treated more favorably a non-
28 disabled individual(s) and/or an individual(s) substantially younger than Plaintiff;

1 g. Harassing, discriminating and retaliating against Plaintiff on the basis of Plaintiff's
2 perceived and/or disability(s), as hereinalleged;

3 h. Harassing, discriminating and retaliating against Plaintiff on the basis of Plaintiff
4 requesting and/or taking and/or being entitled to CFRA and/or other lawful medical
5 leave, as hereinalleged;

6 i. Harassing, discriminating and retaliating against Plaintiff on the basis of perceived
7 and/or age, over forty, as hereinalleged;

8 j. Failing to rehire and/or reemploy Plaintiff.

9 21. The acts and conduct of Defendants, and each of them, as aforesaid, was in
10 violation of California Government Code §12940 et seq. Said statutes impose certain duties upon
11 Defendants, and each of them, concerning harassment, discrimination and retaliation against
12 persons, such as Plaintiff, on the basis of perceived and/or physical disability and the prohibition of
13 perceived and/or physical disability harassment, discrimination and retaliation. Said statutes were
14 intended to prevent the type of injury and damage herein set forth. Plaintiff was, at all times
15 material hereto, an employee with a perceived and/or physical disability(s), and within the
16 protected class covered by California Government Code §12940, prohibiting perceived and/or
17 physical disability harassment, discrimination and retaliation in employment.

18 22. By the acts and conduct described above, Defendants, and each of them, in violation
19 of said statutes, knew about, or should have known about, and failed to investigate and/or properly
20 investigate, prevent or remedy the perceived and/or physical disability harassment, retaliation and
21 discrimination. The acts of discrimination, retaliation and harassment described herein were
22 sufficiently pervasive so as to alter the conditions of employment, and created an abusive working
23 environment. When Plaintiff was harassed, discriminated against and retaliated against, Plaintiff's
24 perceived and/or physical disability(s) and/or complaints about the unlawful conduct were a
25 substantial factor motivating and/or motivating reasons in Defendants' conduct.

26 23. Plaintiff filed timely charges and complaints of perceived and/or physical disability
27 harassment, retaliation and discrimination with the California Department of Fair Employment and
28 Housing and has received Notice(s) of Right to Sue in a California Superior Court pursuant to

1 California Government Code §12965(b). Plaintiff has therefore exhausted Plaintiff's
2 administrative remedies under the California Government Code. Attached hereto and incorporated
3 herein as Exhibit "A" are said Complaints and by reference hereto are made a part hereof.
4 Attached hereto and incorporated herein as Exhibit "B" are said Right to Sue Notices and by
5 reference hereto are made a part hereof.

6 24. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has
7 been directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
8 including, but not limited to, loss of earnings and future earning capacity, medical and related
9 expenses for care and procedures both now and in the future, attorneys fees, and other pecuniary
10 loss not presently ascertained, for which Plaintiff will seek leave of court to amend when
11 ascertained.

12 25. As a direct and legal result of the acts and omissions of Defendants, and each of
13 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
14 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
15 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
16 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
17 time know the exact duration or permanence of said injuries, but is informed and believes, and
18 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

19 26. As a further legal result of the acts and omissions of the Defendants, and each of
20 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
21 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
22 she will in the future be forced to incur additional expenses of the same nature, all in an amount
23 which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said
24 expenses at the time of trial.

25 27. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
26 since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
27 believes, and thereon alleges, that Plaintiff will be incapacitated and unable to perform Plaintiff's
28 usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount

1 which is at present unascertained. Plaintiff will pray leave of court to show the total amount of
2 loss of earnings at the time of trial.

3 28. As a further direct and legal result of the acts and conduct of Defendants, as
4 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
5 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,
6 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
7 plaintiff, who will pray leave of court to assert the same when they are ascertained.

8 29. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
9 this court.

10 30. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
11 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
12 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
13 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
14 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
15 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

16 31. As a result of the discriminatory acts of Defendants, and each of them, as alleged
17 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
18 provided in California Government Code § 12965(b).

19 **II.**

20 **SECOND CAUSE OF ACTION**

21 **(For Violation of the Family Rights Act**

22 **[California Government Code § 12945.2]**

23 **Against All Defendants and DOES 1 Through 100, Inclusive)**

24 32. Plaintiff incorporates herein by reference Paragraphs 1 through 31 as though set
25 forth in full herein.

26 33. Plaintiff was an employee of Defendants who qualified for leave due to physical
27 and/or mental disability(s) pursuant to California Government Code §12945.2 et seq.

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1 34. At all times herein mentioned, Defendants were "Employer[s]" within the
2 definition of Government Code §12945.2, in that Defendants regularly employed 50 or more
3 people and/or adhered and/or abided by CFRA and/or gave their employees equal or greater leave
4 protection than CFRA.

5 35. From the early 2000s, and continuing at least through February 1, 2017, and
6 continuing, Defendants and DOES 1 through 100, and each of them, denied and retaliated against
7 Plaintiff for being entitled to and/or requesting and/or taking Plaintiff's Family Rights and Family
8 Care and Medical Leave, by the following actions, among others:

- 9 a. Defendants, and each of them, harassed, discriminated against and retaliated against
10 Plaintiff, as hereinalleged, in the terms and conditions of Plaintiff's employment;
- 11 b. Defendants and each of them, retaliated against Plaintiff because of Plaintiff's
12 entitlement and/or request and/or taking of the right to medical leave in violation of
13 Government Code §12945.2 et seq. by, amongst others, failing to return Plaintiff to
14 work and/or terminating Plaintiff.

15 36. By the acts and conduct described above, Defendants, and each of them, in violation
16 of said statutes, knew about, or should have known about, and failed to investigate and/or properly
17 investigate, prevent or remedy the retaliation and discrimination in violation of the Family Rights
18 Act. The acts of discrimination described herein were sufficiently pervasive so as to alter the
19 conditions of employment, and created an abusive working environment. Plaintiff's request and/or
20 taking and/or right to take, Family Medical Leave, and/or Plaintiff's complaints about the unlawful
21 conduct were motivating reasons in Defendants' conduct.

22 37. Plaintiff filed timely charges and complaints of retaliation, harassment and
23 discrimination in violation of the Family Rights Act with the California Department of Fair
24 Employment and Housing pursuant to California Government Code §12965(b), permitting Plaintiff
25 to bring this legal action. Attached hereto and incorporated herein as Exhibit "A" are said
26 Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated
27 herein as Exhibit "B" are said Right to Sue Notices and by reference hereto are made a part hereof.

28 ///

1 38. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has
2 been directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
3 including, but not limited to, loss of earnings and future earning capacity, medical and related
4 expenses for care and procedures both now and in the future, attorneys fees, and other pecuniary
5 loss not presently ascertained, for which Plaintiff will seek leave of court to amend when
6 ascertained.

7 39. As a direct and legal result of the acts and omissions of Defendants, and each of
8 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
9 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
10 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
11 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
12 time know the exact duration or permanence of said injuries, but is informed and believes, and
13 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

14 40. As a further legal result of the acts and omissions of the Defendants, and each of
15 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
16 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
17 she will in the future be forced to incur additional expenses of the same nature, all in an amount
18 which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said
19 expenses at the time of trial.

20 41. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
21 since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
22 believes, and thereon alleges, that Plaintiff will be incapacitated and unable to perform Plaintiff's
23 usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount
24 which is at present unascertained. Plaintiff will pray leave of court to show the total amount of
25 loss of earnings at the time of trial.

26 42. As a further direct and legal result of the acts and conduct of Defendants, as
27 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
28 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,

1 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
2 plaintiff, who will pray leave of court to assert the same when they are ascertained.

3 43. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
4 this court.

5 44. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
6 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
7 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
8 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
9 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
10 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

11 45. As a result of the discriminatory acts of Defendants, and each of them, as alleged
12 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
13 provided in California Government Code § 12965(b).

14 **III.**

15 **THIRD CAUSE OF ACTION**

16 **(For Perceived and/or Age Harassment, Discrimination and Retaliation in Employment**

17 **[California Government Code §§12940 and 12941 et seq.]**

18 **Against All Defendants and DOES 1 Through 100, Inclusive)**

19 46. Plaintiff incorporates by reference paragraphs 1 through 45 of this complaint as
20 though fully set forth at this place.

21 47. At all times herein alleged, Plaintiff had the perceived and/or physical disability(s)
22 of back injuries, brain conditions including tumors, diabetes, associated conditions and others and,
23 at the time of his wrongful termination, was perceived to be and/or over the age of forty, at fifty-
24 nine years (59) of age.

25 48. From the early 2000s, and continuing, Plaintiff developed and/or aggravated and/or
26 sustained perceived and/or physical disability(s) including, but not limited to, back injuries, brain
27 conditions including tumors, diabetes, associated conditions and others.

28 49. Plaintiff placed Defendants, and each of them, on notice of Plaintiff's disability(s).

1 50. Plaintiff made and/or articulated a Worker's Compensation claim(s).

2 51. Plaintiff requested and/or was entitled to and/or was granted CFRA and/or other
3 medical and/or other negotiated leave in order to recuperate and heal.

4 52. Plaintiff repeatedly told his Supervisors about his injuries and disability(s), placing
5 Defendants, and each of them, on notice of said injuries and disability(s).

6 53. Plaintiff carried a very heavy workload for Defendants, and each of them. Over the
7 course of time, towards the end of Plaintiff's employment, the Company kept losing qualified
8 technicians, but the workload remained the same. This required Plaintiff to work many, many
9 uncompensated overtime hours.

10 54. In or around January 2017, Plaintiff sent out an email to the Shop Leaders regarding
11 Mechanic Classifications, with a proposed system assisting and/or resolving the lack of qualified
12 technicians, asset utilization while achieving the goals of the Company, and requesting the Shop
13 Leaders' input. Plaintiff received positive feedback to his suggested system.

14 55. On or about February 1, 2017, Western Region Maintenance Manager TROY
15 FERRIS informed Plaintiff that he was being terminated for "engaging the employees" and for
16 sending a "derogatory" email.

17 56. On or about February 1, 2017, Defendants, and each of them, retaliated against and
18 wrongfully terminated Plaintiff for the false and/or exaggerated and/or pretextual reason(s) of
19 "engaging the employees" and for sending a "derogatory" email.

20 57. Plaintiff is informed and believes, and thereon alleges, that Plaintiff was replaced by
21 an employee in their mid-40s, only then to be replaced by another employee substantially younger
22 than Plaintiff's original replacement.

23 58. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
24 them, replaced Plaintiff with and/or kept and/or treated more favorably a non-disabled
25 individual(s) and/or an individual(s) substantially younger than Plaintiff.

26 59. At all times herein alleged, Plaintiff was a qualified disabled worker with one or
27 more perceived and/or physical disability(s), who could perform the essential duties of Plaintiff's
28 job with or without an accommodation, and without causing harm to Plaintiff and/or Plaintiff's

1 fellow employees, and who was entitled to preferential reassignment.

2 60. From prior to February 1, 2017, and continuing at least through February 1, 2017,
3 and continuing, Defendants and DOES 1 through 100, and each of them, discriminated, harassed,
4 and retaliated against Plaintiff on the basis of Plaintiff's perceived and/or age, over forty, by the
5 following continuous actions, and conduct, among others:

- 6 a. On or about February 1, 2017, retaliating against and wrongfully terminating
7 Plaintiff for the false and/or exaggerated and/or pretextual reason(s) of "engaging
8 the employees" and for sending a "derogatory" email;
- 9 b. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
10 them, replaced Plaintiff with and/or kept and/or treated more favorably a non-
11 disabled individual(s) and/or an individual(s) substantially younger than Plaintiff;
- 12 c. Harassing, discriminating and retaliating against Plaintiff on the basis of Plaintiff's
13 perceived and/or disability(s), as herein alleged;
- 14 d. Harassing, discriminating and retaliating against Plaintiff on the basis of Plaintiff
15 requesting and/or taking and/or being entitled to CFRA and/or other lawful medical
16 leave, as herein alleged;
- 17 e. Harassing, discriminating and retaliating against Plaintiff on the basis of perceived
18 and/or age, over forty, as herein alleged;
- 19 f. Failing to rehire and/or reemploy Plaintiff.

20 61. The acts and conduct of Defendants, and each of them, as aforesaid, was in
21 violation of California Government Code §§12940 and 12941 et seq. Said statutes impose certain
22 duties upon Defendants, and each of them, concerning harassment, discrimination and retaliation
23 against persons, such as Plaintiff, on the basis of perceived and/or age and the prohibition of
24 perceived and/or age harassment, discrimination and retaliation. Said statutes were intended to
25 prevent the type of injury and damage herein set forth. Plaintiff was, at all times material hereto,
26 an employee of perceived and/or age, over forty, and within the protected class covered by
27 California Government Code §§12940 and 12941, prohibiting perceived and/or age harassment,
28 discrimination and retaliation in employment.

1 62. By the acts and conduct described above, Defendants, and each of them, in violation
2 of said statutes, knew about, or should have known about, and failed to investigate and/or properly
3 investigate, prevent or remedy the perceived and/or age harassment, retaliation and discrimination.
4 The acts of discrimination, retaliation and harassment described herein were sufficiently severe
5 and/or pervasive so as to alter the conditions of employment, and created an abusive working
6 environment. When Plaintiff was harassed, discriminated against and retaliated against, Plaintiff's
7 perceived and/or age and/or complaints about the unlawful conduct was a substantial factor
8 motivating Defendants' conduct, and/or a motivating reason in Defendants' conduct.

9 63. Plaintiff filed timely charges and complaints of perceived and/or age harassment,
10 retaliation and discrimination with the California Department of Fair Employment and Housing
11 and has received Notice(s) of Right to Sue in a California Superior Court pursuant to California
12 Government Code §12965(b). Plaintiff has therefore exhausted Plaintiff's administrative remedies
13 under the California Government Code. Attached hereto and incorporated herein as Exhibit "A"
14 are said Complaints and by reference hereto are made a part hereof. Attached hereto and
15 incorporated herein as Exhibit "B" are said Right to Sue Notices and by reference hereto are made
16 a part hereof.

17 64. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has
18 been directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
19 including, but not limited to, loss of earnings and future earning capacity, medical and related
20 expenses for care and procedures both now and in the future, attorneys fees, and other pecuniary
21 loss not presently ascertained, for which Plaintiff will seek leave of court to amend when
22 ascertained.

23 65. As a direct and legal result of the acts and omissions of Defendants, and each of
24 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
25 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
26 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
27 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
28 time know the exact duration or permanence of said injuries, but is informed and believes, and

1 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

2 66. As a further legal result of the acts and omissions of the Defendants, and each of
3 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
4 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
5 she will in the future be forced to incur additional expenses of the same nature, all in an amount
6 which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said
7 expenses at the time of trial.

8 67. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
9 since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
10 believes, and thereon alleges, that Plaintiff will be incapacitated and unable to perform Plaintiff's
11 usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount
12 which is at present unascertained. Plaintiff will pray leave of court to show the total amount of
13 loss of earnings at the time of trial.

14 68. As a further direct and legal result of the acts and conduct of Defendants, as
15 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
16 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,
17 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
18 plaintiff, who will pray leave of court to assert the same when they are ascertained.

19 69. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
20 this court.

21 70. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
22 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
23 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
24 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
25 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
26 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

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1 79. As a result of the aforesaid acts of Defendants, and each of them, Plaintiff was
2 denied overtime and benefits to which Plaintiff was entitled, all to Plaintiff's damage within the
3 jurisdiction of this Court, subject to proof at the time of trial. Plaintiff claims such amounts as
4 damage, together with prejudgment interest as provided by law.

5 80. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
6 Plaintiff is entitled to treble damages and additional damages as specifically provided in California
7 Labor Code §§ 202, 203 and 206.

8 81. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
9 Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in
10 California Labor Code §§218.5 and 1194(a).

11 V.

12 **FIFTH CAUSE OF ACTION**

13 **(Violation Of California Business and Professions Code §17200**

14 **(Unfair Business Practices)**

15 **Against all Defendants and DOES 1-100, Inclusive)**

16 82. Plaintiff incorporates herein by reference Paragraphs 1 through 81 of this Complaint
17 as though set forth in full herein.

18 83. Beginning in or around January 2015 and continuing at least until February 1, 2017,
19 and continuing, Defendants, and each of them, (1) failed to properly, or at all, pay Plaintiff wages,
20 overtime wages, failed to deduct the required amounts, and failed to provide Plaintiff with the
21 required benefits.

22 84. California Business and Professions Code §17200 et seq. prohibits unfair business
23 practices by employers including, but not limited to, (1) Failing and refusing to pay employees
24 wages and/or overtime wages in violation of California Labor Code §200 et seq.; and (2)
25 Retaliating and Terminating employees for expected and/or actual complaints of violations of State
26 and/or Federal law.

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1 85. During the entire period of Plaintiff's employment, and including Plaintiff's last six
2 months of employment, Plaintiff made numerous and repeated complaints of Defendants' Unfair
3 Business Practices to employees, managers, supervisors and managing agents of Defendants, and
4 each of them, of Defendants' (1) Failing and refusing to pay employees wages and/or overtime
5 wages in violation of California Labor Code §200 et seq.; and (2) Retaliating and Terminating
6 employees for expected and/or actual complaints of violations of State and/or Federal law.

7 86. Defendants, and each of them, retaliated against Plaintiff for complaining about the
8 Unfair Business Practices by Defendants, and each of them, and wrongfully terminated Plaintiff on
9 or about February 1, 2017. Plaintiff's complaints of Unfair Business Practices was a substantial
10 factor motivating and/or motivating reason in Defendants' conduct.

11 87. By the aforesaid acts and conduct of Defendants, and each of them, has been
12 directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
13 including, but not limited to, loss of earnings and future earning capacity, medical and related
14 expenses for care and procedures both now and in the future, attorney's fees, and other pecuniary
15 loss not presently ascertained, for which plaintiff will seek leave of court to amend when
16 ascertained.

17 88. As a direct and legal result of the acts and omissions of Defendants, and each of
18 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
19 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
20 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
21 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
22 time know the exact duration or permanence of said injuries, but is informed and believes, and
23 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

24 89. As a further legal result of the acts and omissions of the Defendants, and each of
25 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
26 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
27 Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an
28 amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount

1 of said expenses at the time of trial.

2 90. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
3 since said incidents Plaintiff has been unable to engage fully in Plaintiff's occupation, and is
4 informed and believes, and thereon alleges, that Plaintiff will be incapacitated and unable to
5 perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's
6 damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show
7 the total amount of loss of earnings at the time of trial.

8 91. As a further direct and legal result of the acts and conduct of Defendants, as
9 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
10 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,
11 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
12 Plaintiff, who will pray leave of court to assert the same when they are ascertained.

13 92. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
14 this court.

15 93. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
16 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
17 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
18 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
19 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
20 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

21 94. As a result of the discriminatory acts of Defendants, and each of them, as alleged
22 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
23 provided in California Code of Civil Procedure §1021.5 and California Business and Professions
24 Code §17200 et seq.

25 95. As a result of the discriminatory acts of Defendants, and each of them, as alleged
26 herein, Plaintiff is entitled to multiple damages as specifically provided in California Business and
27 Professions Code §17200 et seq.

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VI.

SIXTH CAUSE OF ACTION

**(For Retaliation and Wrongful Termination in Violation of Public Policy
Against Defendants and DOES 1 -100, Inclusive)**

96. Plaintiff incorporates herein by reference Paragraphs 1 through 95 as though set forth in full herein.

97. At all times herein mentioned, the public policy of the State of California, as codified, expressed and mandated in California Government Code §12940 was to prohibit employers from discriminating, harassing, and retaliating against any individual based on perceived and/or physical disability(s). This public policy of the State of California is designed to protect all employees and to promote the welfare and well-being of the community at large. Accordingly, the actions of Defendants, and each of them, in discriminating, retaliating and terminating Plaintiff on the grounds of stated above, or for complaining about such discrimination, retaliation and harassment, was wrongful and in contravention and violation of the express public policy of the State of California, to wit, the policy set forth in California Government Code §12940 et seq., and the laws and regulations promulgated thereunder.

98. At all times herein mentioned, the public policy of the State of California, as codified, expressed and mandated in California Government Code §12945.2 was to prohibit employers from discriminating and retaliating against any individual based on their taking, requesting or needing Family Medical Leave. This public policy of the State of California is designed to protect all employees and to promote the welfare and well-being of the community at large. Accordingly, the actions of Defendants, and each of them, in discriminating, retaliating and terminating Plaintiff on the grounds of stated above, or for complaining about such discrimination and retaliation, was wrongful and in contravention and violation of the express public policy of the State of California, to wit, the policy set forth in California Government Code §12945.2 et seq., and the laws and regulations promulgated thereunder.

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1 99. At all times herein mentioned, the public policy of the State of California, as
2 codified, expressed and mandated in California Government Code §§12940 and 12941 was to
3 prohibit employers from discriminating, harassing, and retaliating against any individual based on
4 perceived and/or age, over forty. This public policy of the State of California is designed to protect
5 all employees and to promote the welfare and well-being of the community at large. Accordingly,
6 the actions of Defendants, and each of them, in discriminating, retaliating and terminating Plaintiff
7 on the grounds of stated above, or for complaining about such discrimination, retaliation and
8 harassment, was wrongful and in contravention and violation of the express public policy of the
9 State of California, to wit, the policy set forth in California Government Code §§12940 and 12941
10 et seq., and the laws and regulations promulgated thereunder.

11 100. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has
12 been directly and legally caused to suffer actual damages pursuant to California Civil Code §3333
13 including, but not limited to, loss of earnings and future earning capacity, medical and related
14 expenses for care and procedures both now and in the future, attorneys fees, and other pecuniary
15 loss not presently ascertained, for which Plaintiff will seek leave of court to amend when
16 ascertained.

17 101. As a direct and legal result of the acts and omissions of Defendants, and each of
18 them, Plaintiff was rendered sick, sore, lame, disabled and disordered, both internally and
19 externally, and suffered, among other things, numerous internal injuries, severe fright, shock, pain,
20 discomfort and anxiety. The exact nature and extent of said injuries are not known to the plaintiff,
21 who will pray leave of court to insert the same when they are ascertained. Plaintiff does not at this
22 time know the exact duration or permanence of said injuries, but is informed and believes, and
23 thereon alleges, that some of the said injuries are reasonably certain to be permanent in character.

24 102. As a further legal result of the acts and omissions of the Defendants, and each of
25 them, Plaintiff has been forced to incur expenses for medical care, X-rays, and laboratory costs
26 during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that
27 she will in the future be forced to incur additional expenses of the same nature, all in an amount
28 which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said

1 expenses at the time of trial.

2 103. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but
3 since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
4 believes, and thereon alleges, that Plaintiff will be incapacitated and unable to perform Plaintiff's
5 usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount
6 which is at present unascertained. Plaintiff will pray leave of court to show the total amount of
7 loss of earnings at the time of trial.

8 104. As a further direct and legal result of the acts and conduct of Defendants, as
9 aforesaid, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent
10 emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain,
11 discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to
12 plaintiff, who will pray leave of court to assert the same when they are ascertained.

13 105. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
14 this court.

15 106. The aforementioned acts of Defendants, and each of them, were wilful, wanton,
16 malicious, intentional, oppressive and despicable and were done in wilful and conscious disregard
17 of the rights, welfare and safety of plaintiff, and were done by managerial agents and employees of
18 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of
19 managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the
20 awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

21 107. As a result of the discriminatory acts of Defendants, and each of them, as alleged
22 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
23 provided in California Code of Civil Procedure §1021.5.

24 **VII.**

25 **SEVENTH CAUSE OF ACTION**

26 **(For Declaratory Relief Against All Defendants and DOES 1 -100, Inclusive)**

27 108. Plaintiff incorporates herein by reference Paragraphs 1 through 107 as though set
28 forth in full herein.

1 109. Depending on the outcome of this lawsuit via dispositive motion and ruling and/or a
2 trial and verdict in this matter, Plaintiff hereby requests this Court issue an affirmative and binding
3 Declaration of Rights and Duties pursuant to the recent ruling in *Harris v. City of Santa Monica*,
4 (2013) 56 C.4th 203, declaring that Defendants, and each of them, their successors, agents,
5 representatives, employees and all persons who acted alone, or in concert with said Defendants,
6 and each of them, committed acts and conduct of harassment, discrimination, retaliation, or other
7 similar acts including, but not limited to, the violations alleged in all of the relevant Causes of
8 Action herein, and as proved and/or shown at the time of the ruling(s) and or verdict(s), and as
9 prohibited by the Fair Employment and Housing Act, California Government Code §§12900 -
10 12996, and any other applicable laws, cases, codes, regulations and statutes.

11 110. At the time of the request for Declaratory Relief, there exists and/or will exist a
12 present and actual controversy among the parties.

13 111. This Complaint, and the relevant causes of action herein, specifically plead an
14 actual, present controversy, and the facts of the respective and underlying claims.

15 112. At the time of the request for Declaratory Relief, the facts of this case will have
16 congealed to the point that the Court can determine issues and grant relief through Declaratory
17 Relief and issue a decree of a conclusive character, with the force and effect of a Final Judgment.

18 113. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
19 Plaintiff requests that this Court issue an Order and Ruling permanently enjoining Defendants, and
20 each of them, their successors, agents, representatives, employees and all persons who acted alone,
21 or in concert with said Defendants, and each of them, from committing acts and conduct of
22 harassment, discrimination, retaliation, or other similar acts including, but not limited to, the
23 violations alleged in all of the relevant Causes of Action herein, and as proved and/or shown at the
24 time of the ruling(s) and or verdict(s), and as prohibited by the Fair Employment and Housing Act,
25 California Government Code §§12900 - 12996, and any other applicable laws, cases, codes,
26 regulations and statutes.

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1 114. As a result of the wrongful conduct of Defendants, and each of them, as alleged
2 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
3 provided in California Government Code § 12965(b) and as specifically mentioned in *Harris v.*
4 *City of Santa Monica*, (2013) 56 C.4th 203.

5 **WHEREFORE**, Plaintiff **JOHN DAVIS**, prays for judgment against the
6 Defendants, and each of them, as follows:

- 7 1. For general damages in an amount within the jurisdictional limits of this
8 Court;
- 9 2. For medical expenses and related items of expense, according to proof;
- 10 3. For loss of earnings, according to proof;
- 11 4. For loss of earning capacity, according to proof;
- 12 5. For reasonable attorneys' fees and costs of said suit as specifically provided
13 in California Government Code §12965 (b), according to proof;
- 14 6. For reasonable attorneys' fees and costs of said suit as specifically provided
15 in California Code of Civil Procedure §1021.5, according to proof;
- 16 7. For treble damages and additional damages as specifically provided in
17 California Labor Code §§ 202, 203 and 206, according to proof;
- 18 8. For reasonable attorneys' fees and costs of said suit as specifically provided
19 in California Labor Code §§218.5, 510 and 1194(a), according to proof;
- 20 9. For damages, penalties and reasonable attorneys' fees and costs of suit as
21 provided for in California Labor Code §§226.7, 512 and 558, according to
22 proof;
- 23 10. For reasonable attorneys' fees and costs of said suit as specifically provided
24 in California Business and Professions Code §17200 et seq., according to
25 proof;
- 26 11. For multiple damages as specifically provided in California Business and
27 Professions Code §17200 et seq., according to proof;


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- 12. For a permanent injunction against Defendants, and each of them, their successors, agents, representatives, employees and all persons who acted alone, or in concert with said Defendants, and each of them, from committing acts and conduct of harassment, discrimination, retaliation, or other similar acts including, but not limited to, the violations alleged in all of the relevant Causes of Action herein, and as proved and/or shown at the time of the ruling(s) and or verdict(s), and as prohibited by the Fair Employment and Housing Act, California Government Code §§12900 - 12996, and any other applicable laws, cases, codes, regulations and statutes;
- 13. For reasonable attorneys' fees and costs of said suit as specifically provided in California Government Code § 12965(b) and as specifically mentioned in *Harris v. City of Santa Monica*, (2013) 56 C.4th 203;
- 14. For prejudgment interest according to proof;
- 15. For punitive and exemplary damages, according to proof;
- 16. For costs of suit incurred herein; and
- 17. For such other and further relief as the court may deem just and proper.

Dated: January 24, 2019

MANCINI & ASSOCIATES
A Professional Law Corporation

By: 
MARCUS A. MANCINI, ESQ.
Attorneys for Plaintiff
JOHN DAVIS

DEMAND FOR JURY TRIAL

Plaintiff JOHN DAVIS hereby demands trial by jury.

Dated: January 24, 2019

MANCINI & ASSOCIATES
A Professional Law Corporation


By: 
MARCUS A. MANCINI, ESQ.
Attorneys for Plaintiff
JOHN DAVIS

EXHIBIT “A”

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**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

John Davis

DFEH No. 201801-00956726

Complainant,

vs.

XPO Logistics Freight, Inc.
2211 Old Earhart Road
Ann Arbor, Michigan 48105

Respondent.

1. Respondent **XPO Logistics Freight, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **John Davis**, resides in the City of **Redlands** State of **California**.

3. Complainant alleges that on or about **February 1, 2017**, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's family care or medical leave (cfra), disability (physical or mental), medical condition (cancer or genetic characteristic), age (40 and over) and as a result of the discrimination was terminated, denied a work environment free of discrimination and/or retaliation, denied any employment benefit or privilege, failed to give equal considerations in making employment decisions.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used california family rights act or fmla, requested or used a disability-related accommodation and as a result was terminated, denied a work environment free of discrimination and/or retaliation, denied any employment benefit or privilege.

Additional Complaint Details: Claimant was discriminated against and/or retaliated against by Respondent on the basis of his age and/or disabilities and/or history of

1 disabilities, i.e., back and brain conditions. Claimant worked for Respondent for over
2 20 years. Prior to his wrongful termination, Claimant took multiple protected medical
3 leaves of absence for his back and brain. On or about February 1, 2017,
4 Respondent wrongfully terminated Claimant for a false and/or pretextual reason.
5 Claimant is informed and believes Respondent wrongfully terminated Claimant on
6 the basis of his age, disabilities and/or history of a disabilities, and/or in retaliation for
7 requesting protected medical leaves of absence and/or taking protected medical
8 leaves of absence.

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1 VERIFICATION

2 I, **Timothy J. Gonzales**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On January 26, 2018, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Los Angeles CA**

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EXHIBIT “B”



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 | TDD (800) 700-2320
<http://www.dfeh.ca.gov> | email: contact.center@dfeh.ca.gov

GOVERNOR EDMUND G. BROWN, JR.
DIRECTOR KEVIN RISH

January 26, 2018

John Davis
869 E. Pennsylvania Ave.
Redlands, California 92374

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 201801-00956726
Right to Sue: Davis / XPO Logistics Freight, Inc.

Dear John Davis,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective January 26, 2018 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GOVERNOR EDMUND G. BROWN, JR.
DIRECTOR KEVIN KISH

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(909) 884-1884 | TDD (800) 700-2320
<http://www.dfeh.ca.gov> | email: contact.center@dfeh.ca.gov

January 26, 2018

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 201801-00956726

Right to Sue: Davis / XPO Logistics Freight, Inc.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

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**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

John Davis

DFEH No. 201801-00956726

Complainant,

vs.

XPO Logistics Freight, Inc.
2211 Old Earhart Road
Ann Arbor, Michigan 48105

Respondent.

1. Respondent **XPO Logistics Freight, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **John Davis**, resides in the City of **Redlands** State of **California**.

3. Complainant alleges that on or about **February 1, 2017**, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's family care or medical leave (ofra), disability (physical or mental), medical condition (cancer or genetic characteristic), age (40 and over) and as a result of the discrimination was terminated, denied a work environment free of discrimination and/or retaliation, denied any employment benefit or privilege, failed to give equal considerations in making employment decisions.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used california family rights act or fmla, requested or used a disability-related accommodation and as a result was terminated, denied a work environment free of discrimination and/or retaliation, denied any employment benefit or privilege.

Additional Complaint Details: Claimant was discriminated against and/or retaliated against by Respondent on the basis of his age and/or disabilities and/or history of

1 disabilities, i.e., back and brain conditions. Claimant worked for Respondent for over
2 20 years. Prior to his wrongful termination, Claimant took multiple protected medical
3 leaves of absence for his back and brain. On or about February 1, 2017,
4 Respondent wrongfully terminated Claimant for a false and/or pretextual reason.
5 Claimant is informed and believes Respondent wrongfully terminated Claimant on
6 the basis of his age, disabilities and/or history of a disabilities, and/or in retaliation for
7 requesting protected medical leaves of absence and/or taking protected medical
8 leaves of absence.

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1 VERIFICATION

2 I, **Timothy J. Gonzales**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On January 26, 2018, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 15303 Ventura Boulevard, Suite 600, Sherman Oaks, California 91403.

On **April 25, 2018**, I served the foregoing document described as **RIGHT TO SUE NOTICE and COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT** on the interested party or parties in this action by certified mail, placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED MAILING LIST

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Sherman Oaks, California.

Executed on **April 25, 2018**, at Sherman Oaks, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


HERMINA AVAKIAN

MAILING LIST

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XPO Logistics Freight, Inc.
13364 Marlay Avenue
Fontana, CA 92337

XPO Logistics Freight, Inc.
c/o Registered Agent Solutions, Inc.
1220 S Street, Suite 150
Sacramento, CA 95811

XPO Enterprise Services, Inc.
13364 Marlay Avenue
Fontana, CA 92337

XPO Enterprise Services, Inc.
c/o Registered Agent Solutions, Inc.
1220 S. Street, Suite 150
Sacramento, CA 95811

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

CIVDS1902700

JOHN DAVIS

CASE NO.:

VS.

CERTIFICATE OF ASSIGNMENT

XPO LOGISTICS FREIGHT, INC., et al

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the San Bernardino-Civil District of the Superior Court under Rule 404 of this court for the checked reason:

[X] General [] Collection

RECEIVED

JAN 25 2019

Table with 2 columns: Nature of Action and Ground. Includes options like Adoption, Conservator, Contract, Equity, Eminent Domain, Family Law, Guardianship, Harassment, Mandate, Name Change, Personal Injury, Personal Property, Probate, Prohibition, Review, Title to Real Property, Transferred Action, Unlawful Detainer, Domestic Violence, and Other Employment.

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

Defendant's Place of Business 13364 MacLay Avenue. NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR ADDRESS

Fontana CA 92337 CITY STATE ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on January 24, 2019 at Sherman Oaks, California

Handwritten signature of attorney party.

CERTIFICATE OF ASSIGNMENT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

San Bernardino District - Civil
247 West Third Street

San Bernardino, CA. 924150210

CASE NO: CIVDS1902700

MANCINI & ASSOCIATES
15303 VENTURA BLVD
SUITE 600
SHERMAN OAKS CA 91403

NOTICE OF TRIAL SETTING CONFERENCE

IN RE: DAVIS -V- XPO LOGISTICS FREIGHT, ET AL

col (h^a)

THIS CASE HAS BEEN ASSIGNED TO: DONNA GUNNELL GARZA IN DEPARTMENT S24 FOR ALL PURPOSES.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference at the court located at 247 WEST THIRD STREET SAN BERNARDINO, CA 92415-0210.

HEARING DATE: 07/25/19 at 8:30 in Dept. S24

*(909)
708-8718*

DATE: 01/25/19 Nancy Eberhardt, Court Executive Officer

By: AMBER GEAR

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice:

- Enclosed in a sealed envelope mailed to the interested party addressed above, for collection and mailing this date, following standard Court practices.
- Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.
- A copy of this notice was given to the filing party at the counter
- A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 01/25/19

I declare under penalty of perjury that the foregoing is true and correct. Executed on 01/25/19 at San Bernardino, CA

BY: AMBER GEAR